TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

No. 43.

WARREN B. WILSON, APPELLANT,

vs.

LESLIE M. SHAW, SECRETARY OF THE TREASURY.

APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

FILED JUNE 10, 1905.

(19,796.)

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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

No. 294.

WARREN B. WILSON, APPELLANT,

vs.

LESLIE M. SHAW, SECRETARY OF THE TREASURY.

APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., AUGUST 31, 1905.

1 In the Court of Appeals of the District of Columbia.

WARREN B. WILSON, Appellant,
vs.
LESLIE M. SHAW, Secretary of the Treasury, *et al.* } No. 1532.

Supreme Court of the District of Columbia.

WARREN B. WILSON, Complainant,
vs.
LESLIE M. SHAW, Secretary of the Treasury; The Republic of Panama, and The New Panama Canal Company of France, Defendants. } No. 24573. In Equity.

UNITED STATES OF AMERICA, *District of Columbia,* } *ss:*

Be it remembered, that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:—

Bill.

Filed March 28, 1904.

In the Supreme Court of the District of Columbia.

No. 24573.

UNITED STATES OF AMERICA, *District of Columbia,* } *ss:*

To the honorable the judges of the supreme court of the District of Columbia, in chancery sitting:

Your orator, Warren B. Wilson, of the village of Hinsdale, in the county of Du Page, in the State of Illinois, who sues herein on his own behalf, and on behalf of all other persons similarly situated, humbly complaining unto your honors, of the defendants hereinafter named, for cause of complaint would give your honors to know:

First. Your orator is a citizen of the United States of America, and of the State of Illinois, residing in the State of Illinois,
2 as aforesaid. That he is the owner of property in the United States of America, subject to taxation by the United States

of America, and a taxable inhabitant of said United States of America.

Second. That the defendant, Leslie M. Shaw, is the Secretary of the Treasury, and as such Secretary of the Treasury, has the custody and control of the moneys of the United States of America, in excess of sixty million dollars, including taxes, duties and imposts laid and collected, money borrowed on the credit of the United States, and the proceeds of the disposition of the territory and other property of the United States.

Third. That after the approval of that certain act of Congress entitled "An act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans," approved June 28, 1902, the President of the United States, in pursuance of the terms of said act, and in execution thereof, entered into negotiations with the proper authorities of the "Republic of Columbia," to acquire for and on behalf of the United States of America, the perpetual control of the strip of land, the territory of the "Republic of Columbia," not less than six miles in width, extending from the Caribbean sea to the Pacific ocean; and the right to use and dispose of the waters thereon, and to excavate, construct, and to perpetually maintain, operate and protect thereon, a canal of such depth and capacity as would afford convenient passage of ships of the greatest ton-age and draught, in use at the time of the approval of said act of Congress, namely, June 28, 1902, from the Caribbean sea to the Pacific ocean, together with all the other property, rights and privileges, which the said act of Congress purported to authorize the President to acquire from the Republic of Columbia, for and on behalf of the United States.

But your orator avers that the said negotiations were not successful; that the terms of the treaty were agreed on between the President of the United States of America and the President of the Republic of Columbia, in and by which, provision was attempted to be made for the acquirement from said Republic of Columbia, for and on behalf of the United States, of such perpetual control of said strip of land of the territory of the Republic of Columbia, and of all the other property, rights and privileges, which the said act of Congress purported to authorize the President of the United States to acquire from said Republic of Columbia, for and on behalf of the United States: But this treaty was on to-wit, the 17th day of August, A. D. 1902, rejected by the said the authorities of said the Republic of Columbia; that negotiations with said the Republic of Columbia were thereupon broken off, and have never been resumed, and no treaty has since or at any time, been concluded by or for the United States of America with the said the Republic of Columbia, relating to said matters, nor has the President of the United States of America, for and on behalf of the United States, nor has the United States of America in any manner, acquired from the said the

3 Republic of Columbia such perpetual control of such strip of ground, or any of the property, rights or privileges, which

the said act of Congress purports to authorize the President of the United States to acquire from the said the Republic of Columbia, for and on behalf of the United States.

Fourth. Your orator further avers that shortly after the refusal of the authorities of said the Republic of Columbia, to enter into the convention with the United States of America, as aforesaid, a rebellion against the authority of the said the Republic of Columbia, was organized by persons residing in that portion of said the Republic of Columbia in which the said the isthmus of Panama was and is located; that the said persons in a public manner declared their independence of the said the Republic of Columbia, and established an independent government, republican in form, over that portion of the territory of the said the Republic of Columbia, which includes the said isthmus of Panama. That the President of the United States of America thereupon recognized the independence of the said persons, under the name and style of the Republic of Panama, and on behalf of the United States of America, entered into diplomatic relations with them, as an independent nation and government separate from and independent of the said the Republic of Columbia. That thereupon a treaty was entered into between the United States of America and the said the Republic of Panama, in the words and figures following to-wit:

"*Isthmian Canal Convention.*

"The United States of America, and the Republic of Panama, being desirous to insure the construction of a ship canal across the isthmus of Panama, to connect the Atlantic and Pacific oceans; and the Congress of the United States of America, having passed an act approved June 28, 1902, in furtherance of that object by which the President of the United States is authorized to acquire, within a reasonable time, the control of the necessary territory of the Republic of Columbia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention, and have accordingly appointed as their plenipotentiaries,

The President of the United States of America: John Hay, Secretary of State, and the government of the Republic of Panama, Philippe Bunau-Varilla, envoy extraordinary and minister plenipotentiary of the Republic of Panama, thereupon specially empowered by said government, who, after communicating with each other, their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I. The United States guarantees and will maintain, the independence of the Republic of Panama.

ARTICLE II. The Republic of Panama grants to the United States, in perpetuity the use, occupation and control, of a zone of
4 land and land under water, for the construction, maintenance, operation, sanitation and protection of said canal, of

the width of ten miles, extending to the distance of five miles on each side of the center line of the route of the canal to be constructed; the said zone beginning in the Caribbean sea three marine miles from mean low water mark, and extending to and across the isthmus of Panama into the Pacific ocean to a distance of three marine miles from mean low water mark, *and extending to and across the isthmus of Panama into the Pacific ocean, to a distance of three marine miles from mean low water mark*, with the proviso that the cities of Panama and Colon, and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant.

The Republic of Panama further grants to the United States, in perpetuity, the use, occupation and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said canal, or of any auxiliary canals or other works, necessary and convenient for the construction, maintenance, operation, sanitation and protection of said enterprise.

The Republic of Panama further grants in like manner to the United States, in perpetuity, all islands within the limits of the zone above described, and in addition thereto the group of small islands in the bay of Panama, named Perico, Naos, Culebra and Flamenco.

ARTICLE III. The Republic of Panama grants to the United States, all the rights, power and authority within the zone mentioned and described in article III of this agreement, and within the limits of all auxiliary lands and waters mentioned and described in said article II, which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign right, power or authority.

ARTICLE IV. As rights subsidiary to the above grant, the Republic of Panama grants in perpetuity to the United States, the right to use the rivers, streams, lakes and other bodies of water within its limits for navigation, the supply of water or water power, for other purposes, so far as the use of said rivers, streams, lakes and bodies of water and the waters thereof, may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said canal.

ARTICLE V. The Republic of Panama grants to the United States in perpetuity, a monopoly, for the construction, maintenance and operation of any system of communication by means of canal or railroad, across its territory between the Caribbean sea and the Pacific ocean.

ARTICLE VI. The grants herein contained shall in no manner invalidate the titles or rights of private land-holders or owners of private property in the said zone, or in or to any of the lands
5 or waters granted to the United States by the provisions of any article of this treaty, nor shall they interfere with the

rights of way over the public road, passing through the said zone, or over any of the said lands or waters, unless said rights of way or private rights shall conflict with rights herein granted to the United States; in which case the rights of the United States shall be superior. All damages caused to the owners of private lands or private property of any kind, by reason of the grants contained in this treaty, or by reason of the operations of the United States, its agents or employees, or by reason of the construction maintenance, operation, sanitation and protection of the said canal, or of the works of sanitation and protection herein provided for, shall be appraised and settled by a joint commission appointed by the Governments of the United States and the Republic of Panama, whose decisions as to such damages shall be final, and whose awards as to such damages, shall be paid solely by the United States. No part of the work on said canal, or the Panama railroad, or any auxiliary roads related thereto, and authorized by the terms of this treaty, shall be prevented, delayed or impeded, by or pending such proceedings, to ascertain such damages. The appraisal of said private lands and private property, and the assessment of damages to them, shall be based upon their value before the date of this convention.

ARTICLE VII. The Republic of Panama grants to the United States, within the limits of the cities of Panama and Colon, and their adjacent harbors, and within the territory adjacent thereto, the right to acquire by purchase, or by the exercise of the right of eminent domain, any lands, buildings, water rights or other property, necessary and convenient for the construction, maintenance, operation and protection of the canal, and of any works of sanitation, such as the collection and disposition of sewage and the distribution of water, in the said cities of Panama and Colon, which, in the discretion of the United States, may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said canal and railroad. All such works of sanitation, collection and distrbution of sewage, and distribution of water in the cities of Panama and Colon, shall be made at the expense of the United States, and the Government of the United States, its agents or nominees, shall be authorized to impose and collect water rates and sewerage rates, which shall be sufficient to provide for the payment of interest, and the amortization of the principal of the costs of such works within a period of fifty years; and upon the expiration of said term of fifty years, the system of sewers and water works shall revert to and become the property of the cities of Panama and Colon respectively, and the use of the water shall be free to the inhabitants of Panama and Colon, except to the extent that water rates may be necessary for the operation and maintenance of said system of sewers and water.

The Republic of Panama agrees that the cities of Panama and Colon shall comply in perpetuity with the sanitary ordi-
6 nances, whether of a preventive or punitive character, prescribed by the United States; and in case the government of

Panama is unable or fails in its duty to enforce this compliance by the cities of Panama and Colon with the sanitary ordinances of the United States, the Republic of Panama grants to the United States the right and authority to enforce the same.

The same right and authority are granted to the United States, for the maintenance of public order, in the cities of Panama and Colon, and the territories and harbors adjacent thereto, in case the Republic of Panama should not be in the judgment of the United States, able to maintain such order.

ARTICLE VIII. The Republic of Panama grants to the United States all rights which it now has, or hereafter may acquire, to the property of the Panama Canal Company and the Panama Railroad Company, as a result of the transfer of sovereignty from the Republic of Columbia to the Republic of Panama over the isthmus of Panama, and authorizes the new Panama Canal Company to sell and transfer to the United States its rights, privileges, properties and concessions, as well as the Panama railroad, and all the shares or part of the shares of that company; but the public lands situated outside of the zone described in article II of this treaty, now included in the concessions to both those enterprises, and not required in the construction or operation of the canal, shall revert to the Republic of Panama, except any property now owned by or in the possession of said company within Panama or Colon or the ports or terminals thereof.

ARTICLE IX. The United States agrees that the ports at either entrance of the canal and the waters thereof; and the Republic of Panama agrees, that the towns of Panama and Colon shall be free for all time, so that there shall not be imposed or collected, custom house tolls, tonnage, anchorage, light house, wharf, pilot, or quarantine due, or any other charges or taxes of any kind upon any vessel using or passing through the canal, or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance, operation, sanitation and protection of the main canal, or auxiliary works, or upon the cargo, offices, crew, or passengers of any such vessels, except such tolls and charges as may be imposed by the United States for the use of the canal and other works, and except tolls and charges imposed by the Republic of Panama upon merchandise, destined to be introduced for the consumption of the rest of the Republic of Panama; and upon vessels touching at the ports of Colon and Panama, and which do not cross the ca*lan*.

The government of the Republic of Panama shall have the right to establish in such ports and in the towns of Panama and Colon such houses and guards as it may deem necessary to collect duties on importations destined to any portions of Panama and to prevent contraband trade.

The United States shall have the right to make use of the
7 towns and harbors of Panama and Colon, as places of anchorage, and for making repairs, for loading, unloading, deposit-

ing, or transshipping cargoes, either in transit, or destined for the service of the canal, and for other works pertaining to the canal.

ARTICLE X. The Republic of Panama agrees that there shall not be imposed any taxes, national, municipal, departmental or of any other class, upon the canal, railways, and auxiliary rivers, tugs, and other vessels employed in the service of the canal, store-houses, workshops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property and effects pertaining to the canal or railroad, and auxiliary works, or their officers or employees, situated within the cities of Panama and Colon; and there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the canal and railroad and auxiliary work.

ARTICLE XI. The United States agrees that the official dispatches of the government of the Republic of Panama shall be transmitted over any telegraph and telephone lines established for canal purposes and used for public and private business at rates not higher than those required from officials in the service of the United States.

ARTICLE XII. The government of the Republic of Panama shall permit the immigration and free access to the lands and workshops of the canal and its auxiliary works of all employees and workmen of whatever nationality, under contract to work upon or seeking employment upon or in any wise connected with the said canal and its auxiliary works, with their respective families, and all such persons shall be free and exempt from military service of the Republic of Panama.

ARTICLE XIII. The United States may import at any time into the said zone and auxiliary lands, free of custom duties, imposts, taxes, or other charges and without any restrictions, any and all vessels, dredges, engines, cars, machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance, operation, sanitation and protection of the canal and auxiliary works, and all provisions, medicines, clothing, supplies and other things necessary and convenient for the officers, employees, workmen and laborers in the service and employ of the United States, and for their families. If any such articles are disposed of for use outside of the zone and auxiliary lands granted to the United States and within the territory of the Republic, they shall be subject to the same import or other duties as like articles imported under the laws of the Republic of Panama.

ARTICLE XIV. As the price of compensation for the rights, powers and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of ten millions of dollars ($10,000,000.00) in gold coin of the United States, on the exchange of the ratification of this convention; and also an annual payment during the life of this convention of two

hundred and fifty thousand dollars ($250,000.00) in like gold coin, beginning nine years after the date aforesaid.

The provisions of this article shall be in addition to all other benefits assured to the Republic of Panama under this convention.

But no delay or difference of opinion under this article or any other provisions of this treaty, shall affect or interrupt the full operation and effect of this convention in all other respects.

ARTICLE XV. The joint commission referred to in article VI, shall be established as follows: The President of the United States shall nominate two persons, and the President of the Republic of Panama shall nominate two persons; and they shall proceed to a decision; but in case of disagreement of the commission, (by reason of their being equally divided in conclusions) an umpire shall be appointed by the two governments who shall render the decision. In the event of the death, absence or incapacity of the commission or umpire, or of his omitting, declining or ceasing to act, his place shall be filled by the appointment of another person in the manner above indicated; all decisions by a majority of the commission or by the umpire, shall be final.

ARTICLE XVI. The two governments shall make adequate provision by future agreement for the pursuit, capture, imprisonment, detention and delivery within said zone and auxiliary lands, to the authorities of the Republic of Panama of persons charged with the commitment of crimes, felonies or misdemeanors without said zone, and for the pursuit, capture, imprisonment, detention and delivery without said zone to the authorities of the United States of persons charged with the commitment of crimes, felonies and misdemeanors within said zone and auxiliary lands.

ARTICLE XVII. The Republic of Panama grants to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessel employed in the canal enterprise, and for all vessels passing or bound to pass through the canal, which may be in distress and be driven to seek refuge in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of the Republic of Panama.

ARTICLE XVIII. The canal when constructed, and the entrances thereto, shall be neutral in perpetuity, and shall be open upon the terms provided for by section I of article XII of, and in conformity with all the stipulations of, the treaty entered into by the governments of the United States and Great Britain on November 28th 1901.

ARTICLE XIX. The government of the Republic of Panama shall have the right to transport over the canal its vessels and its troops and its munitions of war in such vessels, at all times, without paying charges of any kind. The exemption is to be extended to the auxiliary railway for the transportation of persons in the service of
9 the Republic of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war and supplies.

ARTICLE XX. If by reason of any existing treaty, in relation to the territory of the isthmus of Panama, whereof the obligations shall descend or be assumed by the Republic of Panama, there may be any privilege or concession in favor of the government or citizens and subjects of the third power, relative to an inter-oceanic means of communication which in any of its terms may be incompatible with the terms of the present convention, the Republic of Panama agrees to cancel or modify such treaty in due form; for which purpose it shall give to the said third power the requisite notification with the term of four months from the date of the present convention, and in case the existing treaty contains no clause permitting its modifications or annullment, the Republic of Panama agrees to procure its modification or annulment in such form that there shall not exist any conflict with the stipulations of the present convention.

ARTICLE XXI. The rights and privileges granted by the Republic of Panama to the United States in the preceding articles, are understood to be free of all anterior debts, liens, trusts, or liabilities, or concessions or privileges to other governments corporations, syndicates or individuals, and consequently, if there should arise any claims on account of the present concessions and privileges, or otherwise, the claimants shall resort to the government of the Republic of Panama, and not to the United States, for any indemnity or compromise which may be required.

ARTICLE XXII. The Republic of Panama renounces and grants to the United States the participation to which it might be entitled in the future earnings of the canal under article XV of the concessionary contract with Lucien N. B. Wyse, now owned by the New Panama Canal Company, and any and all other rights or claims of a pecuniary nature, arising under or relating to said concession, or arising under or relating to the concessions to the Panama Railroad Company, or any extensions or modifications thereof; and it likewise renounces, confirms and grants to the United States, now and hereafter, all the rights and property reserved in the said concessions, which otherwise belong to Panama, at or before the expiration of the terms of ninety-nine years of the concessions granted to or held by the above mentioned parties and companies, and all right, title and interest which it now has or may hereafter have, in and to the lands, canal, works, property and rights held by the said companies, under said concessions or otherwise, and acquired or to be acquired by the United States, from or through the new Panama Canal Company, including any property and rights which might or may in the future either by lapse of time, forfeiture or otherwise, revert to the Republic of Panama under any contract or concessions with said Wyse, the Universal Panama Canal Company, the Panama Railroad Company, and the new Panama Canal Company.

The aforesaid rights and property shall be and are, free and released from any present or reversionary interest in or claims of Panama, and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the

new Panama Canal Company, shall be absolute, so far as concerns the Republic of Panama, excepting always the rights of the Republic, specifically secured under this treaty.

ARTICLE XXIII. If it should become necessary, at any time to employ armed forces for the safety or protection of the canal, or of the ships that make use of the same, or the railways and auxiliary works, the United States shall have the right, at all times and in its discretion, to use its police and its land and naval forces, or to establish fortifications for these purposes.

ARTICLE XXIV. No change either in the government or in the laws and treaties of the Republic of Panama shall, without the consent of the United States, under the present convention, or under any treaty stipulation between the two countries that now exists or may hereafter exist, touching the subject matter of this convention.

If the Republic of Panama shall hereafter enter as a constituent into any other government, or into any union or confederation of States, so as to merge her sovereignty or independence in such government, union or confederation, the rights of the United States under this convention shall not be in any respect lessened or impaired.

ARTICLE XXV. For the better performance of the engagements of this convention, and to the end of the efficient protection of the canal and the preservation of its neutrality, the government of the Republic of Panama will sell or lease to the United States lands adequate and necessary for naval or coaling stations on the Pacific coast, and on the western Caribbean coast of the Republic at certain points to be agreed upon with the President of the United States.

This convention, when signed by the plenipotentiaries of the contracting parties, shall be ratified by the respective governments, and the ratification shall be exchanged at Washington at the earliest date possible; in faith whereof, the respective plenipotentiaries have signed the present convention in duplicate, and have hereunto affixed their respective seals.

Done at the city of Washington, the eighteenth day of November, in the year of our Lord 1903.

JOHN HAY. [SEAL.]
P. BUNAU VARILLA. [SEAL.]

By the President,
JOHN HAY,
Secretary of State.

That the said treaty was duly ratified by and on behalf of the said Republic of Panama, by the proper authorities of said Republic of Panama, and on behalf of the United States of America,
11 was made and ratified by the President, by and with the advice and consent of the Senate, (two-thirds of the Senators present concurring), on to-wit, the twenty-fifth day of February, 1904.

Your orator further avers that the said defendant, The Republic of Panama, is a Republic; that its government is republican in form;

that the persons representing and acting for and on behalf of said the Republic of Panama, in the making and the ratification of said treaty with the United States of America, had and have the same right, power and authority to represent, act for and bind said the Republic of Panama, by treaty, as the right, power and authority to represent, act for and bind the said United States of America, now and then held by the President of the United States of America, by and with the advice and consent of the Senate; that the legal effect in the territory of the Republic of Panama of this or any treaty executed by the said representatives of said Republic of Panama, is the same as the legal effect in the territory of the United States of America of a treaty in like terms made on behalf of the United States by the President of the United States, by and with the advice and consent of the Senate as provided by the Constitution.

That no treaty has since the approval of said act of Congress entitled as aforesaid, been made with the said the Republic of Columbia, nor has the President acquired from said the Republic of Columbia, for and on behalf of the United States, nor has said the United States of America acquired from said the Republic of Columbia, any right of way or any rights or privileges upon or over said isthmus of Panama, or any part thereof; nor has the said United States of America in any manner acquired any right of way or any rights or privileges upon or over said isthmus, nor any of the other rights, privileges or things the said act of Congress purports to authorize the President to acquire, for and on behalf of the United States, from the Republic of Columbia, except such as are claimed to have been derived from the said treaty with the said the Republic of Panama. The said isthmus of Panama is entirely outside the territorial limits of the United States of America.

Fifth. That in pursuance of assumed authority of said act of Congress, and in execution thereof, a contract has been entered into between the President, acting for and on behalf of the United States of America, and the New Panama Canal Company of France, mentioned in said act of Congress, approved June 28, 1903, for the sale by the said New Panama Canal Company of France to the United States of America, and for the purchase by the United States of America, from the said the New Panama Canal Company of France, at the agreed price of forty million dollars ($40,000,000) to be paid by the said United States of America to the said the New Panama Canal Company of France, of the property, rights and privileges the said act of Congress entitled as aforesaid purported to authorize the President to acquire from the said the New Panama Canal
12 Company of France, for and on behalf of the United States; a satisfactory title thereto having been shown.

Sixth. That the President is about to issue his warrant or warrants under the assumed authority of said act of Congress, and as therein provided, for the payment of said sum of ten million dollars ($10,000,000.00) to the said the Republic of Panama, and of said sum of forty million dollars ($40,000,000) to the said the New Panama

Canal Company of France, or to their respective agents, attorneys or assigns, for and in consideration of the matters aforesaid; that large expenses have been incurred by the President, and are now being incurred and about to be incurred by him, for and on account of the United States, in and about the construction of a ship canal across said isthmus of Panama under the assumed authority of said act of Congress, and in and about active preparations therefor. That the defendant, Secretary of the Treasury *of the Treasury* aforesaid, Leslie M. Shaw, is publicly giving out that he intends to, and unless restrained as hereinafter prayed, he will pay or cause to be paid out of the moneys of the United States, in and about the expenses of the construction of said canal and preparations therefor, up to the amount of ten million of dollars, under the assumed authority of said act of Congress, and in pursuance of instructions to be issued thereunder. And the said defendant, Leslie M. Shaw, Secretary of the Treasury as aforesaid, is publicly giving out that upon the issuance of warrants therefor by the President, about to be issued as aforesaid, he will pay or cause to be paid out of the moneys of the United States of America, under his control as aforesaid, the said sum of ten million dollars ($10,000,000.00) to the said the Republic of Panama, or to such other person or persons as may be designated in the warrant or warrants of the President about to be issued as aforesaid therefor; and the sum of forty million dollars ($40,000,000.00) to the said the New Panama Canal Company of France, or to such other person or persons as may be designated in the said warrant or warrants of the President about to be issued therefor as aforesaid. And unless restrained by the order and injunction of the court, as hereinafter prayed, he will make such payments and all of them, and will pay out in the expenses of construction, or causing to be constructed, the entire sum of ten million dollars ($10000000) the said act of Congress purports to authorize to be paid therefor; that the expenses of constructing said canal or causing the same to be constructed, will be more than the ten million dollars ($10,000,000.00) the said act purports to appropriate for that purpose; and, in addition thereto, the full amount of one hundred and thirty million dollars ($1350,000,000.00) which amount the said act purports to authorize the said defendant, Secretary of the Treasury as aforesaid, to borrow on the credit of the United States for such purpose.

Your orator further avers that this defendant, Leslie M. Shaw, Secretary of the Treasury as aforesaid, is publicly giving out that under the assumed authority of said act of Congress, he will
13 borrow money on the credit of the United States to the amount of one hundred and thirty million dollars ($130,000,000.00) and issue the bonds of the United States therefor, to defray the expenditures the said act purports to authorize; and your orator avers and charges that unless restrained by the order and decree of the court, as herein prayed, he will borrow said $130,000,000.00 on the

credit of the United States, and issue bonds of the United States therefor, for the purpose aforesaid;

Seventh. Your orator further avers, that there is no appropriation by law of any money of said the United States of America, or any lawful authority for the payment of any of the said sums, that is to say, for the payment of any expenses incurred or to be incurred in and about constructing or preparing to construct said canal, or for the payment to any person or persons of any money of the United States, by reason of any obligation or undertakings in any contracts made or to be made in the name of or on behalf of the United States under the assumed authority of said act of Congress, nor for the payment of said ten million dollars ($10,000,000.00) to said the Republic of Panama, or of said forty million dollars ($40,000,000.00) to said the New Panama Company of France, nor for the payment of any moneys in and about the execution of said act of Congress, approved June 28, 1902; nor is there any authority of law for borrowing money on the credit of the United States, or for the issuance or sale of any of the bonds of the United States to provide money for the construction of said canal, except such appropriation or authority as is claimed to have been given under and by virtue of said act of Congress entitled as aforesaid, approved June 28, 1902.

Eighth. But your orator alleges and charges, that the said act of Congress entitled "An act to provide for the construction of a canal connecting the waters of the Atlantic & Pacific oceans," approved June 28, 1902, is wholly unauthorized by and in violation of the Constitution of the United States of America, null and void. That the said treaty is wholly unconstitutional and invalid, both in the Republic of Panama and in the United States of America; in its essential features, and it confers no rights, and imposes no obligations upon either of the parties thereto.

That even if the said act of Congress were a valid and legal enactment, its terms and conditions have not been complied with, and do not authorize or purport to authorize the proposed payments or other things herein complained of. That if any of the proposed payments above named are made out of the moneys of the United States, and drawn from the Treasury therefor, such payments and each of them will be without any appropriation made by law, and in violation of the Constitution of the United States, and especially of the seventh subdivision of section 9 of article 1 thereof, that "No money shall be drawn from the Treasury but in consequence of appropriations made by law."

Ninth. Your orator further avers that the said defendant
14 Leslie M. Shaw, is giving out and publicly stating that said act of Congress, approved June 28, 1902, is a valid and constitutional enactment, and that by reason of and under the authority of said act of Congress and the facts herein set out, he is entitled to and that it is his lawful duty to, and he will pay out of the said moneys of the United States, under his control, to the said the Republic of Panama, the said sum of ten million dollars, and to the said the

New Panama Canal Company of France, the said sum of forty million dollars ($40,000,000.00) upon said warrants of the President about to be issued therefor, and for the considerations aforesaid.

And the said defendant, Leslie M. Shaw, Secretary of the Treasury as aforesaid, is publicly giving out that by virtue of the said act of Congress entitled as aforesaid, he is entitled to and that it is his duty to, borrow money on the credit of the United States, and issue and sell the bonds of the United States therefor, to the amount of but not to exceed, one hundred and thirty million dollars ($130,000,000.00) to defray the expenses alleged to be authorized by said void act of Congress, in and about constructing said canal, the construction of which under the pretended authority of said void act of Congress, is about to be commenced by the President.

Your orator further avers that unless restrained by a writ of injunction, to be issued out of this honorable court, the said defendant, Leslie M. Shaw, Secretary of the Treasury as aforesaid, will pay or cause to be paid, out of the moneys of the United States under his control as aforesaid, the said sums of money to the said parties respectively, and in payment of the expenses of constructing said canal, and will borrow on the credit of the United States, and issue and sell, or cause to be issued and sold, the bonds of the United States therefor as aforesaid.

That the said defendant, Leslie M. Shaw, is not a person of sufficient means, nor has he given bonds to the United States of America, or other security, sufficient to make good either of the said sums, and if the same should be paid out of the Treasury in violation of law, that said moneys so paid will be entirely lost, to the irreparable injury of said United States of America and of your orator.

Your orator further avers that the President of the United States is publicly giving out that the said act of Congress, entitled as aforesaid, is a valid and lawful statute, and that the things herein alleged to have been done, and *to be* about to be done, in attempted execution thereof, are a sufficient compliance with the terms thereof, and that upon the making of a transfer now about to be made from the New Panama Canal Company of France to the United States of America of its rights and property as aforesaid, it is his lawful duty to and he will, issue his warrants for the payment of the said ten million of dollars to the said Republic of Panama, or its agents, attorneys or representatives, and for the payment of said sum of forty million dollars ($40,000,000.00) to said The New Panama
15 Company of France, upon the completion of some formal details in the transfer of said property as aforesaid, now being put in form and about to be completed; that the President fully approves the course of the Secretary of the Treasury as aforesaid, believing it to be his lawful duty so to do; that any application for leave to prosecute this suit, or any giving similar relief, through the officers of the United States, would be therefore unavailing.

Tenth. Your orator further avers that the defendant, The New Panama Canal Company of France, is a corporation organized under

the laws of a foreign country, namely, under the laws of the Republic of France, and not resident within the United States, or within the reach of the process of this court; that the said defendant, The Republic of Panama, is a foreign and independent nation, and not within the reach of the process of this court.

And your orator well hoped that the defendant would have done according to equity and good conscience in the matter, and especially that the said defendant, Leslie M. Shaw, Secretary of the Treasury as aforesaid, would not have paid out, or caused or permitted to be paid out any of the moneys of the United States, under his control, except in consequence of appropriations made by law, nor have borrowed any money on the credit of the United States, nor issued any bonds of the United States, or promises to pay money on their behalf, except upon good and sufficient authority of law. But now so it is, may it please the court, that the said defendant, Leslie M. Shaw, Secretary of the Treasury as aforesaid, giving out that the said act of Congress, approved June 28, 1902, is a lawful statute, and affords sufficient lawful authority to justify the payment of said sums of money, and the borrowing of said money and the issuing of said bonds, is about to make said payments and to borrow said moneys on the credit of the United States, to issue bonds therefor in manner and form aforesaid.

Forasmuch therefore as your orator is without remedy, according to the strict rules of the common law, and can only have relief in a court of equity where matters of this nature are cognizable and relievable:

To the end that the defendants and each of them may full, true and perfect answer make, to all and singular the matters and things herein alleged; that a writ of injunction may issue out of this honorable court enjoining and restraining the defendant, Leslie M. Shaw, Secretary of the Treasury as aforesaid, his successors, agents or attorneys, from paying, causing or permitting to be paid, out of the moneys of the United States of America, under his control, any sum or sums of money under the pretended authority of said act of Congress approved June 28, 1902, entitled "An act to provide for the construction of a canal, connecting the waters of the Atlantic and Pacific oceans;" from paying or causing or permitting to be paid, to the Republic of Panama, or to any person or persons, natural or corporate, the said sum of ten million dollars ($10,000,000.00) or any sum of money, in consideration of the making of said
16 treaty with the Republic of Panama, or in consideration of any of the things in the said treaty, assumed or undertaken to be done or granted; from paying or causing or permitting to be paid, *or* to any person or persons, natural or corporate, the said sum of forty million dollars ($40,000,000.00) or any part thereof, in consideration of or for, and on account of any transfer from any person or persons, natural or corporate, to or for and on behalf of the United States of America, of the property, rights and things, or any of them, which the said act of Congress, entitled as above, approved June 28,

1902, purports to authorize the President to acquire from the New Panama Canal Company of France, for and on behalf of the United States; from paying or causing and permitting to be paid, out of any moneys of the United States of America, under his control, any sum or sums of money, to any person or persons, natural or corporate, in consideration of or for and on account of, any thing or things done or furnished, whether services *is* rendered or goods or property rights or privileges, furnished, in and about constructing or preparing to construct such canal, the construction of which said act of Congress entitled as above, approved June 28, 1902, purports to authorize; or on account of any promise or undertakings, assumed or to be made, for and on behalf of the United States of America, and any contracts made or to be made, under the assumed authority of said act of Congress approved June 28, 1902, entitled as aforesaid, from paying or causing or permitting to be paid, out of the moneys of the United States of America, under his control, any sum or sums of money, in and about the execution of said void act of Congress, approved June 28, 1902, from paying or causing and permitting to be paid, out of the moneys of the United States of America, under his control, any sum or sums of money, in and about the execution of said void act of Congress, approved June 28, 1902, or the acquiring or doing any of the matters and things the said act of Congress purports to authorize to be acquired or done; from borrowing any money on the credit of the United States of America, or issuing any bonds under the assumed authority of said void act of Congress, or to provide the funds for any of the purposes therein described; or, if your honors should be of opinion that for any reason it would be inequitable to issue the said writ of injunction in the form as prayed above, then will your honors issue such other writ of injunction, enjoining and restraining the said defendant, Leslie M. Shaw, Secretary of the Treasury as aforesaid, his agents, attorneys, successors or assigns, as the equities of the case may require; and will your honors grant unto your orator, such other and further relief in the premises as may be according to equity and good conscience.

And will your honors grant unto your orator, the writ of subpœna, and such other suitable process, under the seal of this court, directed to the defendants, Leslie M. Shaw, Secretary of the Treasury, The Republic of Panama, The New Panama Canal Company of
17 France, commanding them and each of them, to be and appear in this honorable court, by a short day to be named therein, then and there to make answer unto this, your orator's bill of complaint; and to abide by and perform such order and decree as the court may make in the premises.

And your orator will ever pray.

WARREN B. WILSON,
Solicitor, Pro Se.

Memorandum.

Subpœna to answer issued and returned served defendant Leslie M. Shaw personally March 28, 1904.

Separate Demurrer of Defendant.

Filed June 7, 1904.

In the Supreme Court of the District of Columbia.

WARREN B. WILSON
vs.
LESLIE M. SHAW, Secretary of the Treasury, *et al.* } No. 24573. In Equity.

Separate Demurrer of the Defendant Leslie M. Shaw, Secretary of the Treasury of the United States.

Now comes the defendant Leslie M. Shaw, Secretary of the Treasury of the United States, and by protestation, not confessing or acknowledging all or any of the matters and things in the bill of complaint to be true in such manner and form as the same are therein set forth and alleged, doth demur to said bill of complaint upon and for the following reasons, among others:

1. That said bill contains no matter of equity whereon this court can ground any decree or give complainant any relief against this defendant.

2. That it appears in said bill that this defendant is sued as an officer of the Government of the United States acting for and on behalf of the said United States, and concerning matters arising out of and within his duty and employment as such public officer, and not in any manner in his private character, as an individual.

3. That the complainant has no interest in the subject matter of this suit, nor any proper title to institute a suit concerning it, nor to any relief prayed for.

4. That it appears in said bill that the defendant The Republic of Panama is a foreign nation, and that such nation cannot be sued in this court.

18 5. That it appears in said bill that the United States has an interest in the subject matter thereof, but the said United States is not and cannot be made a party defendant to said bill.

Wherefore, and for divers other good causes of demurrer appearing in said bill of complaint, this defendant prays judgment of this honorable court whether he shall be compelled to make any other answer to said bill.

MORGAN H. BEACH,
Solicitor for the Defendant Leslie M. Shaw,
Secretary of the Treasury.

I hereby certify, as counsel for the defendant Leslie M. Shaw, in the foregoing demurrer, that in my opinion the same is well founded in point of law and proper to be filed.

MORGAN H. BEACH.

DISTRICT OF COLUMBIA, ss:

The defendant Leslie M. Shaw, Secretary of the Treasury, makes oath that the foregoing demurrer is not interposed for delay.

L. M. SHAW.

Subscribed and sworn to before me, this 25th day of May, A. D. 1904.

JAS. N. FITZPATRICK,
Notary Public.

[SEAL.]

Decree Dismissing Bill, Appeal, &c.

Filed February 8, 1905.

In the Supreme Court of the District of Columbia.

WARREN B. WILSON, Complainant,
vs.
LESLIE M. SHAW, Secretary of the Treasury, *et al.*
} No. 24573, Equity Docket 55.

This cause coming on to be heard upon the demurrer of the defendant Leslie M. Shaw, Secretary of the Treasury, to the bill of complaint herein, and the same having been argued by counsel for the respective parties, and considered by the court, it is, this 8th day of February, A. D. 1905, adjudged, ordered and decreed that the said demurrer be, and the same hereby is, sustained, and the bill of complaint herein dismissed.

WENDELL P. STAFFORD, *Justice.*

The complainant having in open court noted an appeal to the Court of Appeals from the above decree, the penalty of the bond on such appeal for costs, is hereby fixed at the sum of one hundred dollars ($100.00).

WENDELL P. STAFFORD, *Justice.*

19 *Memorandum.*

February 13, 1905.—Appeal bond filed and $100. deposited for costs of appeal.

Assignment of Errors.

Filed February 13, 1905.

UNITED STATES OF AMERICA, *District of Columbia*, } ss:

WARREN B. WILSON, Appellant,
vs.
LESLIE M. SHAW, Secretary of the Treasury; THE Republic of Panama, The New Panama Canal Company of France, Appellees.

No. 24573, Eq. Docket 55.

On Appeal from the Supreme Court of the District of Columbia to the Court of Appeals of the District of Columbia.

Comes now Warren B. Wilson, complainant in the said supreme court of the District of Columbia, and appellant in the said the Court of Appeals of the District of Columbia, and says, there is manifest error in the record and proceedings of the said the supreme court of the District of Columbia in said cause, in this, to-wit:

The court erred,

First. In sustaining the demurrer of the defendant Leslie M. Shaw, Secretary of the Treasury, to the bill of complaint herein.

Second. In dismissing the bill of complaint for want of equity.

Third. In rendering final judgment in favor of defendant against the complainant.

Wherefore said appellant prays that the final judgment of the supreme court of the District of Columbia, in the above entitled cause, be in all respects reversed.

WARREN B. WILSON,
Appellant, Pro Se.

20 *Præcipe for Transcript.*

Filed March 14, 1905.

In the Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, *District of Columbia*, } ss:

WARREN B. WILSON
vs.
LESLIE M. SHAW, Secretary of the Treasury; The Republic of Panama; The New Canal Company of France.

No. 24573. Equity.

To John R. Young, Esq., clerk of said court:

You will please prepare a transcript of the record in the above entitled cause, to be filed in the Court of Appeals of the District of Columbia. The record should consist of the following:

1st. The bill.
2nd. The process and the return thereon.
3rd. The demurrer of the defendant Leslie M. Shaw, Secretary of the Treasury, to the bill.
4th. The order of the court thereon entered February 7th, 1905 sustaining the demurrer aforesaid, and dismissing the bill for want of equity.
5th. The prayer of appeal and order allowing the same, and requiring deposit of one hundred dollars therefor.
6th. The appeal bond, the record showing the deposit, and the order of the court approving said bond and deposit.

WARREN B. WILSON.

Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, *District of Columbia*, } *ss:*

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 32, inclusive, to be a true and correct transcript of the record, as per directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 24,573, in equity, wherein Warren B. Wilson is complainant and Leslie M. Shaw, Secretary of the Treasury, *et al.*, are defendants, as the same remains upon the files and of record in said court.

21

Seal Supreme Court of the District of Columbia.

In testimony whereof, I hereunto subscribe my name and affix the seal of said court, at the city of Washington, in said District, this 20th day of March, A. D. 1905.

JOHN R. YOUNG, *Clerk.*

Endorsed on cover: District of Columbia supreme court. No. 1532. Warren B. Wilson, appellant, *vs.* Leslie M. Shaw, Secretary of the Treasury, *et al.* Court of Appeals, District of Columbia. Filed Mar. 20, 1905. Henry W. Hodges, clerk.

22 MONDAY, *April 17th, A. D.* 1905.

WARREN B. WILSON, Appellant,
vs.
LESLIE M. SHAW, Secretary of the Treasury; THE REPUBLIC of Panama, and The New Panama Canal Company of France. } No. 1532.

The argument in the above entitled cause was commenced by Mr. Warren B. Wilson, *in propria persona*, and was continued by Mr. Assistant Attorney General Russell, attorney for the appellee Shaw, and was concluded by Mr. Warren B. Wilson, *in propria persona*.

23 WARREN B. WILSON, Appellant,
vs.
LESLIE M. SHAW, Secretary of the Treasury; THE REPUBLIC of Panama, and The New Panama Canal Company of France. } No. 1532.

(*Opinion.*)

Mr. Justice MORRIS delivered the opinion of the court:

This is a suit in equity instituted in the supreme court of the District by the appellant as complainant, alleging himself to be a citizen of the United States and of the State of Illinois, and the owner of property therein subject to taxation by the United States, to enjoin the payment by the Secretary of the Treasury of the $50,000,000 authorized by the act of Congress of June 28, 1902 (32 Stat. 481), to be paid to the New Panama Canal Company of France, and for the acquisition of a strip of land across the isthmus of Panama, in connection with the construction of the proposed inter-oceanic canal across that isthmus. The injunction is sought on the ground that the act of Congress is unconstitutional, and that the treaty between the United States and the Republic of Panama, purporting to convey to the United States the rights deemed necessary for the construction of the canal, is null and void, and actually conveys no such rights.

The bill of complaint sets forth the terms of the statute and of the treaty, but no facts not of public notoriety; and a recital of its allegations is therefore unnecessary. A demurrer to it was interposed on behalf of the Secretary of the Treasury; but there was no appearance for the Republic of Panama or for the New Panama Canal Company of France, and no attempt to issue any process against either. The demurrer was sustained, and the bill was dismissed; and from the decree of dismissal the complainant has appealed to this court.

Undoubtedly it is the purpose of the parties to this cause, as it is their right, to seek the ultimate decision of the Supreme Court of the United States; and the decision of this court will be regarded by them as no more than a step in the progress of the litigation. Consequently, notwithstanding the vast interests involved and the questions of great magnitude raised by the complainant and most ably presented by him both in brief and oral argument, we deem it unnecessary to follow him in that argument or to enter into any elaborate consideration of those questions. We will content ourselves with a brief statement of the general principles which we think should determine our decision in the case.

We take it that, in general, the construction of a canal stands upon no different plane from that of a railroad, or a turnpike, or any ordinary public road, so far as it concerns the right of a State to construct any one or more of them. They are all equally public highways, although with different conditions and different limitations. They are all avenues of communication which it has always been

held to be the peculiar province of the State to construct, although it has often found it more convenient to construct them by private corporations organized for the purpose than by its own direct effort. That any State of our Union may, within its own borders, construct such a highway in either one of the modes indicated, we presume is not judicially open to inquiry.

Neither can there be judicial question at this day of the lawful authority of the United States to construct such a highway, either road or canal, within the territory over which they have exclusive jurisdiction, such as the District of Columbia and the so-called territories of the United States. The United States authorized the construction of the great trans-continent lines of railroad through its own territory; and the lawful authority was not wanting to do the work themselves had it been deemed expedient. Similarly, if it had been deemed expedient at any time to construct a canal between the Mississippi river and the Pacific ocean, and thus to bind the States of the Atlantic with those of the Pacific coast, we do not see how the lawful power could be denied to the United States to construct such a canal, either by the agency of an organized company or directly on its own account by its own employés, so far as the work lay within the territory over which it had exclusive jurisdiction. And such power need not be derived from the constitutional authority to regulate commerce between the States and with foreign nations, but would be the inherent right of a sovereign acting within its own domain, and authorized to levy taxes for the general good and the common welfare of all the States.

Now, when outside of our former domain and yet so situated as to be appropriate for the purpose, the United States have acquired yet other territory, and propose to construct through it a canal to connect the Pacific and the Atlantic States, and to facilitate the commerce of both with each other and with foreign nations, why should their lawful power so to do be deemed less than if they sought to construct a similar canal through New Mexico and Arizona to connect the waters of the Colorado with those of the gulf of California? If we own the requisite land across the isthmus of Panama, we fail to see wherein there would be any greater constitutional inhibition against the construction of a canal there than there would be against a similar construction in Arizona or Alaska. The question, of course, is not one of expediency, about which men may well differ, and which it would be for Congress, and not for the courts, to determine, but one of lawful constitutional authority; and we see no reason, even under the strictest construction of the Federal Constitution, to doubt the lawful authority of the United States to open up a way of intercommunication within its own territory.

As already stated, the construction of highways is the special function, and even the duty of the State; and that function can not reasonably be denied to the United States in the places in which it is sovereign and has exclusive jurisdiction. In its sovereignty, in its exclusive jurisdiction, in its ultimate ownership of the soil, in its

authority to levy taxes in order to provide for the general welfare, rather than in the authority vested in the Federal Government to regulate commerce, do we find the lawful power of the United States to construct an inter-oceanic canal.

But it is argued that on the isthmus of Panama we have acquired neither the sovereignty nor the ownership of the soil that would be proper for the construction of a ship canal across that strip of land. There is undoubtedly some question left by our treaty with the Republic of Panama as to our sovereignty over the so-called "Canal zone;" and it may be that the ultimate ownership of the soil of that "Canal zone" is not vested in the United States. But we have acquired a right of way, which for all practical purposes is the equivalent of ownership of the soil; and we have acquired such extent of control over the territory as to constitute the substance, if not the name, of sovereignty. The court has been invoked to intervene as a court of equity; and courts of equity look at the substance rather than the form of things. Moreover, the executive and legislative departments of the Government, upon which the duty is devolved of negotiating treaties and enforcing them, have manifested their entire satisfaction with the treaty in question; and the courts should not be swift to find defects in it, since the purpose to be subserved is a public purpose almost exclusively within the cognizance of those two departments.

It follows in our opinion that the decree appealed from must be affirmed, with costs. And it is so ordered.

Affirmed.

24 TUESDAY, *May 2nd, A. D.* 1905.

WARREN B. WILSON, Appellant,
vs.
LESLIE M. SHAW, Secretary of the Treasury; The Republic of Panama, and The New Panama Canal Company of France. } No. 1532. April Term, 1905.

Appeal from the Supreme Court of the District of Columbia.

This cause came on to be heard on the transcript of the record from the supreme court of the District of Columbia, and was argued by counsel. On consideration whereof, it is now here ordered, adjudged, and decreed by this court that the decree of the said supreme court in this cause be, and the same is hereby, affirmed with costs.

Per MR. JUSTICE MORRIS.

May 2, 1905.

TUESDAY, *May 23rd, A. D.* 1905.

WARREN B. WILSON, Appellant,
vs.
LESLIE M. SHAW, Secretary of the Treasury; THE REPUBLIC of Panama, and The New Panama Canal Company of France. } No. 1532.

On motion of Mr. Warren B. Wilson, *in propria persona*, appellant in the above entitled cause, it is ordered by the court that said appellant be allowed an appeal to the Supreme Court of the United States, and the bond for costs is fixed at the sum of $300.

25 (*Bond on Appeal.*)

Know all men by these presents, that we, Warren B. Wilson, as principal, and S. Percy Buchanan, as surety, are held and firmly bound unto Leslie M. Shaw, Secretary of the Treasury in the full and just sum of three hundred ($300.) dollars, to be paid to the said Leslie M. Shaw, Secretary of the Treasury certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this — day of ——, in the year of our Lord one thousand nine hundred and five.

Whereas, lately at a Court of Appeals of the District of Columbia in a suit depending in said court, between Warren B. Wilson, appellant and Leslie M. Shaw, Secretary of the Treasury, The Republic of Panama and The New Panama Canal Company of France a decree was rendered against the said Warren B. Wilson and the said Warren B. Wilson having prayed and obtained an appeal to the Supreme Court of the United States to reverse the decree in the aforesaid suit, and a citation directed to the said Leslie M. Shaw, Secretary of the Treasury citing and admonishing him to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date thereof;

Now, the condition of the above obligation is such, that if the said Warren B. Wilson shall prosecute said appeal to effect, and answer all costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

WARREN B. WILSON. [SEAL.]
S. PERCY BUCHANAN. [SEAL.]

Sealed and delivered in presence of—
JAMES R. GLASS.

O. K.
M. H. BEACH.

Approved by—
M. F. MORRIS,
Associate Justice Court of Appeals of the District of Columbia.

[Endorsed:] No. 1532. Warren B. Wilson, appellant, *vs.* Leslie M. Shaw, Sec'y of the Treasury *et al.* Bond on appeal to S. C. U. S. Court of Appeals District of Columbia. Filed June 5, 1905. Henry W. Hodges, clerk.

26 UNITED STATES OF AMERICA, *ss:*

To Leslie M. Shaw, Secretary of the Treasury, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date hereof, pursuant to an order allowing an appeal, filed in the clerk's office of the Court of Appeals of the District of Columbia, wherein Warren B. Wilson is appellant, and you are appellee, to show cause, if any there be, why the decree rendered against the appellant, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable M. F. Morris, associate justice of the Court of Appeals of the District of Columbia, this 5th day of June, in the year of our Lord one thousand nine hundred and five.

M. F. MORRIS,
Associate Justice of the Court of Appeals of the District of Columbia.

Service accepted this 5th day of June, 1905.
MORGAN H. BEACH,
U. S. Attorney, D. C., Solicitor for Leslie M. Shaw.

[Endorsed:] Court of Appeals, District of Columbia. Filed Jun-5, 1905. Henry W. Hodges, clerk.

27 Court of Appeals of the District of Columbia.

I, Henry W. Hodges, clerk of the Court of Appeals of the District of Columbia, do hereby certify that the foregoing printed and typewritten pages numbered from 1 to 26, inclusive, contain a true copy of the transcript of record and proceedings of said Court of Appeals, in the case of Warren B. Wilson, appellant, *vs.* Leslie M. Shaw, Secretary of the Treasury; The Republic of Panama and The New Panama Canal Company of France, No. 1532, April term, 1905, as the same remain upon the files and records of said Court of Appeals.

Seal Court of Appeals, District of Columbia.

In testimony whereof I hereunto subscribe my name and affix the seal of said Court of Appeals, at the city of Washington, this 5th day of June, A. D. 1905.

HENRY W. HODGES,
Clerk of the Court of Appeals of the District of Columbia.

Endorsed on cover: File No. 19,796. District of Columbia Court of Appeals. Term No. 294. Warren B. Wilson, appellant, *vs.* Leslie M. Shaw, Secretary of the Treasury. Filed June 10th, 1905. File No. 19,796.